

REMARKS

This application has been amended so as to place it in condition for allowance at the time of the next Official Action.

The Official Action objected to the drawings because Figures 1, 2, 10-12 and 15 require verbal labeling for the otherwise schematic elements. Applicants enclose substitutes for sheets 1, 9, 10, and 15. Each adds text to the original drawing figures to identify the schematically illustrated elements. The text in question is taken directly from the narrative portion of the specification in which those elements identified by the reference numerals are identified. Accordingly, the substitute sheets of drawings introduce no new matter to the application.

The Official Action objects to the declaration, stating that the section of the declaration form entitled "PCT filed application entering national stage" has not been completed. While true, the declaration as filed nevertheless meets the requirements of U.S. patent practice. Among other requirements, a U.S. declaration must specifically identify the application to which it refers. The form used as the basis for the declaration filed in the present application is designed to be used in a number of different scenarios. The present declaration was filed after the June 28, 2004 filing date of the application itself. Accordingly, at the time the declaration was filed, the application serial number was known. Accordingly, the declaration was completed to identify the application by a filing

date and application serial number. The declaration therefore properly identifies the application to which it refers, and is entirely in compliance with U.S. practice.

If the present objection is maintained, applicants respectfully request that the Official Action making such objections specifically identify the section of the regulations identified considered to underlie such objection.

The Official Action objects to the Abstract as to form. Applicants have replaced the originally-filed Abstract with a replacement, and reconsideration and withdrawal of this objection are therefore respectfully requested.

The Official Action objects to the Brief Description of Drawings, specifically the description of Figures 7 and 14. Applicants have amended this portion of the specification as necessary to eliminate the bases for this objection, the reconsideration and withdrawal of which are therefore respectfully requested.

The Official Action identifies language on page 26, lines 19-20 as the basis for objection. Applicants have deleted the text as necessary in order to eliminate the basis for this objection.

The Official Action objects to various passages in the specification. Applicants have amended the specification as necessary in order to eliminate the bases for this objection, the

reconsideration and withdrawal of which are respectfully requested.

The Official Action rejects claims 1 and 2 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of copending Application No. 10/893,292. Applicants have canceled the claim in question of the cited application, thereby eliminating the basis for this rejection. Applicants include herewith a copy of the amendment of June 26, 2006 filed in the cited application as evidence of such cancellation. Reconsideration and withdrawal of this rejection are therefore respectfully.

The Official Action rejects claim 12 under 35 USC §102(b) as being anticipated by U.S. Patent No. 4,800,512 to BUSCH. Reconsideration and withdrawal of this rejection are respectfully requested for the following reasons:

The Official Action identified those elements of the BUSCH device considered to meet the recited features of the present invention. Among these is the recited logger, described in the claim as registering use of at least one of the condition monitoring functions. It is applicants' understanding that this feature is being read on one of the memory elements illustrated schematically in Figure 5, and discussed in column 10, lines 40-58 of BUSCH.

The function of the various memory elements 45-47 of the BUSCH device is well summarized by the text in column 8, lines 37-49, where it is stated:

The evaluation circuit contains a microprocessor 44, a fixed value store (ROM) 45 for the supply of program running data, a first writing and reading store (RAM 1) 46, and a second writing and reading store (RAM 2) 47. The named circuit stages are connected to each other by a connecting data bus 48. Writing and reading store 46 is associated with the identifying data reading and evaluating operation, while writing and reading store 47 is associated with the data from the test value detection at the measuring points. In the fixed value store 45 is stored the program data both for the reading operation and also for the measured value detection and evaluation operation.

It is clear that the read-only-memory 45 stores nothing more than the program instructions executed by the microprocessor. The read/write memories 46 and 47 store data associated with the reading and evaluating operations, as well as the data from the test value detection at the measuring points.

Absent from both this passage and the remainder of the reference is any indication that the BUSCH device performs any sort of accounting operation to maintain a record of how often or for what duration the data acquisition and analysis operations are performed. By extension, as this data is not acquired by the BUSCH device, it necessarily is not logged by such device.

In order to sharpen the distinction between the present invention as claimed and the BUSCH apparatus, applicants have amended claim 12 to more specifically recite that the logger

registers a value indicative of an amount of use of at least one of the condition monitoring functions. Moreover, the communication port is defined in part by its delivery of information representing such registered value indicative of an amount of use.

In sum, while the BUSCH device stores executable programs which may well constitute one or more condition monitoring functions, both this reference and all other known prior art utterly lack any teaching of the determination and storage of data reflecting the amount of use of such program or program segments.

As the applied reference fails to disclose the full set of features of the rejected claim, reconsideration and withdrawal of such rejection are respectfully requested.

The Official Action rejects claim 23 under 35 USC §103(a) as unpatentable over U.S. Patent no. 4,800,512 to BUSCH in view of U.S. Patent no. 5,633,811 to CANADA et al. Reconsideration of withdrawal of this rejection are respectfully requested for the following reasons:

Claim 23 depends directly from claim 12, which is the subject of the anticipation rejection considered *supra*. Claim 23 therefore implicitly recites each of the features of amended claim 12, including the requirement of a logger for registering a value indicative of an amount of use of at least one of the condition monitoring functions.

Claim 23 further recites, and the CANADA et al. reference is offered as teaching, the availability of a plurality of condition monitoring functions within a data collector/analyzer. However, irrespective of the ability of such reference to teach or suggest that for which it is specifically offered, it no more teaches or suggests the feature discussed above than does the primary BUSCH reference.

As the two references, considered individually or collectively, fail to teach or suggest the full set of features recited in the rejected claim, applicants respectfully that the present rejection cannot reasonably be maintained, and reconsideration and withdrawal of such rejection are therefore respectfully requested.

In addition to the amendments described above, applicants have added new claims 28-39. Of these, claims 28-35 each depend ultimately from independent claim 1 and recite further features of the present invention, particularly those described at least on pages 41-43 of the present specification as originally filed.

Claim 36 is an independent system claim from which claims 37-39 depend.

Applicants note the statement in the Official Action that claims 1-11 and 16-22 are allowed, and claims 13-15 are allowable but for their dependence from a rejected base claim. In light of this statement of allowance and allowability,

together with the amendment to the cited copending application, the amendment to the present claims, and the arguments offered in support thereof, applicants believe the present application in condition for allowance and an early indication of the same is respectfully requested.


If the Examiner has any questions or requires further clarification of any of the above points, the Examiner may contact the undersigned attorney so that this application may continue to be expeditiously advanced.

Please charge the fee of \$600 for 12 extra claims of any type added herewith to Deposit Account No. 25-0120.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

  
Eric Jensen, Reg. No. 37,855  
745 South 23<sup>rd</sup> Street  
Arlington, VA 22202  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

EJ/lrs

**COPY FOR DEPOSIT  
ACCOUNT PURPOSES**

together with the amendment to the cited copending application, the amendment to the present claims, and the arguments offered in support thereof, applicants believe the present application in condition for allowance and an early indication of the same is respectfully requested.

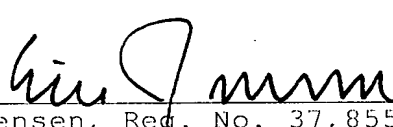
If the Examiner has any questions or requires further clarification of any of the above points, the Examiner may contact the undersigned attorney so that this application may continue to be expeditiously advanced.

Please charge the fee of \$600 for 12 extra claims of any type added herewith to Deposit Account No. 25-0120.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

  
Eric Jensen, Reg. No. 37,855  
745 South 23<sup>rd</sup> Street  
Arlington, VA 22202  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

EJ/lrs



**APPENDIX:**

The Appendix includes the following items:

- replacement Abstract
- replacement drawing sheets
- amendment filed June 26, 2006 in copending Application No. 10/893,292